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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,174	06/27/2003	Marissa A. K. Schultz	J-3819	7786
28165	7590	08/12/2004	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/609,174

### Applicant(s)

SCHULTZ, MARISSA A. K.

### Examiner

Amy J. Sterling

### Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-39 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office Action for application number 10/609,174, Holding Device for Thermoplastic Lids, filed on 6/27/03. Claims 1-18, 20-39, and 41 are pending.

#### ***Election/Restrictions***

Claims 19 and 40 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/28/04 .

#### ***Information Disclosure Statement***

The information disclosure statement submitted on 1/9/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

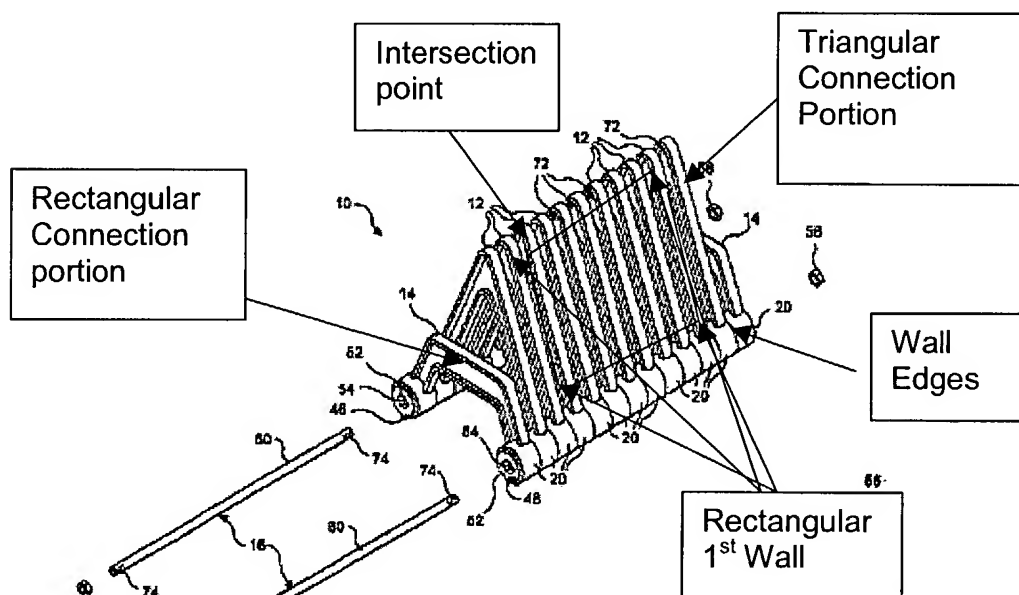
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18, 20-27 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6170675 to Follman et al.

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The patent to Follman et al. discloses a plastic (See Col. 3, line 8-11 for material selection) holding device (10) with a first wall (24) which has a polygonal or rectangular shape including a first polygonal step-shaped cutout portion (72) (the cutouts are step shaped in that each one is like spaced apart like steps) and a step portion (70) extending from the front sides of the walls for holding object thereon and a second wall (28) with a second cutout portion (72) intersecting the first wall at an angle less than 180 degrees or 90 degrees, a first and second polygonal or rectangular or triangular connection portion (See Drawing Below for explanation), extending perpendicularly from and connecting the first and second edge portions of the first and second walls through the angle and a ridge (16) extending perpendicular from the rear side the walls.



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

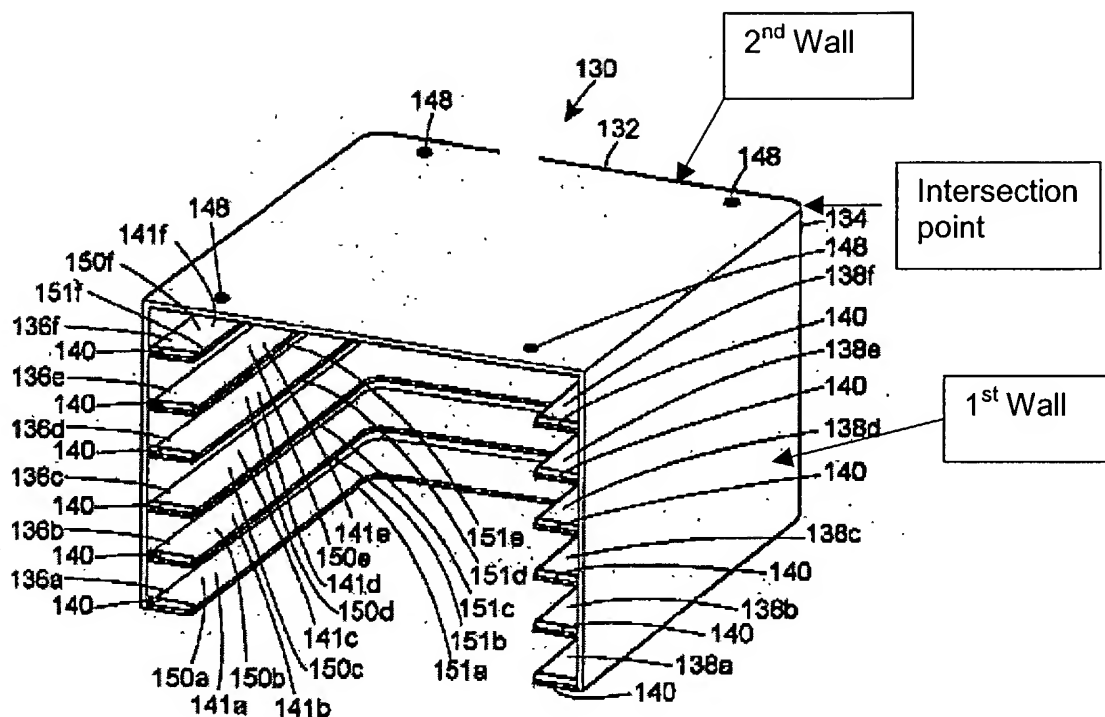
A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 28-39 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Publication No. 2004/0140274 to Turvey et al.

Turvey et al. teaches a holding device for stacking thermoplastic container lids including a first and second intersecting planar walls (See Fig. Below, 134, See Fig. 18) wherein each of the walls has a step shaped or polygonal cutout portion (138a-138f) (Step shaped refers to the platforms of the cutouts which represent steps (140), and at least one thermoplastic lid (142, See Fig. 19) which can be circular (See Fig. 4) or polygonal/rectangular (See Fig. 19) disposed between the cutout portions of the walls and held in place therein on the step portions and a connecting portion (132) extending perpendicularly from and connecting first and second walls through an angle, and mounting holes (148) for use with a fastener.



### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various brackets

2004/0112848 to Ito

5598932 to Weidert

5207334 to Lear

4032242 to Morris

3692265 to Barriger

3464567 to Gowdy et al.

3326387 to Princevalle

2600755 to Greensfelder

939005 to Goedeke

D411783 to Kualauu


D401811 to Hait

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
8/3/04



ANITA KING  
PRIMARY EXAMINER